

ORDINANCE NO. 1897

AN ORDINANCE GRANTING TO BFI WASTE SERVICES OF TEXAS, L.P. AN EXCLUSIVE SOLID WASTE FRANCHISE TO OPERATE MOTOR VEHICLES UPON THE PUBLIC STREETS OF THE CITY OF SUGAR LAND FOR THE COLLECTION AND REMOVAL OF SOLID WASTE AND CONSTRUCTION AND DEMOLITION WASTE FROM RESIDENTIAL AND COMMERCIAL PROPERTY AND HOUSEHOLD HAZARDOUS WASTE FROM RESIDENTIAL PROPERTY; AND APPROVING THE EXCLUSIVE FRANCHISE AND CONTRACT ATTACHED TO THIS ORDINANCE AS EXHIBIT A.

WHEREAS, the City wishes to transition from the current non-exclusive system of commercial solid waste collection to a uniform waste collection service provided by an exclusive franchisee; and

WHEREAS, the City is vested with full authority under its police power to regulate the collection and disposal of solid waste and the use of its public streets for the same; and

WHEREAS, the Texas Health and Safety Code expressly provides the City with authority to grant an exclusive franchise to a single waste hauler to collect and dispose of solid waste; and

WHEREAS, the City finds the current system has resulted in insufficient waste hauler accountability, inconsistent pricing, non-uniform appearance and quality of vehicles and containers, haulers operating without licenses or in violation of City requirements, unnecessary traffic congestion, and unnecessary wear and tear on City streets; and

WHEREAS, the City believes an exclusive franchise would provide substantial benefits to the residents of Sugar Land, including decreased cost of service, enhanced customer service, increased recycling, decreased impact on City streets, increased accountability, and improvements in the quality and appearance of containers, vehicles, and the community generally; and

WHEREAS, the City finds that BFI Waste Services of Texas, L.P. (BFI) is well-qualified to become the City's exclusive franchisee for commercial solid waste as it currently provides exclusive residential waste collection services in Sugar Land in a professional manner and, as a result, the City believes it will provide commercial waste collection services that will meet the objectives stated above at a lower cost to City residents; and

WHEREAS, the City intends to mitigate the impact of the transition to the exclusive franchise for commercial solid waste by allowing commercial residents currently receiving collection and disposal services from a commercial solid waste operator to "opt out" of BFI's services, as the City's exclusive franchisee, for a limited period of time, consistent with Section 364.034(e) of the Texas Health and Safety Code; and

WHEREAS, the City has determined that a customer's ability to opt-out of the exclusive franchise should end upon the earlier of the expiration of its existing contract or agreement with a third-party commercial solid waste operator, or the expiration of the commercial solid waste operator's operating license with the City; and

WHEREAS, the City wishes to grant an exclusive franchise for the collection and disposal of solid waste and household hazardous waste from residential property; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND:**

Section 1. That the City Council finds as true and correct and adopts the findings and recitals set forth in the preamble to this Ordinance.

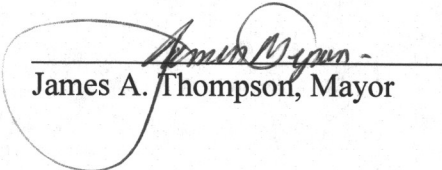
Section 2. That the City Council grants an exclusive franchise to BFI Waste Services of Texas, L.P. (BFI) to use the public streets within the corporate limits of the City for the purpose of collecting and disposing of solid waste and construction and demolition waste from commercial and residential property and household hazardous waste from residential property located within the City's corporate limits. A copy of the Exclusive Franchise and Contract is attached as Exhibit A and incorporated into this Ordinance (Exclusive Franchise and Contract).

Section 3. That the exclusive franchise granted by this Ordinance is subject to the City's other ordinances, including those relating to the collection and disposal of solid waste, and the terms and conditions of the Exclusive Franchise and Contract.

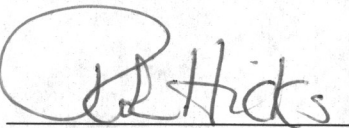
Section 4. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on March 05, 2013.

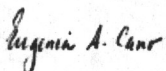
ADOPTED on second consideration on March 19, 2013.


James A. Thompson, Mayor

ATTEST:


Robin Hicks, Acting City Secretary

Reviewed for Legal Compliance:


Eugenia A. Cano



CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	03-19-13	AGENDA REQUEST NO:	III-C
INITIATED BY:	DAWN STEPH, <i>DMS</i> ENVIRONMENTAL MANAGER	RESPONSIBLE DEPARTMENT:	PUBLIC WORKS
PRESENTED BY:	DAWN STEPH, ENVIRONMENTAL MANAGER	DIRECTOR:	MIKE GOODRUM, <i>MW6</i> DIRECTOR OF PUBLIC WORKS
		ADDITIONAL DIRECTOR (S):	N/A
SUBJECT / PROCEEDING:	SECOND READING OF ORDINANCE NO. 1897 GRANTING EXCLUSIVE FRANCHISE FOR SOLID WASTE SERVICES		
EXHIBITS:	ORDINANCE NO. 1897		
CLEARANCES		APPROVAL	
LEGAL:	EUGENIA CANO, FIRST ASSISTANT CITY ATTORNEY <i>EAC</i>	ASSISTANT CITY MANAGER:	KAREN DALY <i>KD</i>
PURCHASING:	TODD REED, PURCHASING MANAGER	ASSISTANT CITY MANAGER:	N/A
BUDGET:	N/A	CITY MANAGER:	ALLEN BOGARD <i>Allen Bogard</i>
BUDGET			
EXPENDITURE REQUIRED: \$		N/A	
CURRENT BUDGET: \$		N/A	
ADDITIONAL FUNDING: \$		N/A	
RECOMMENDED ACTION			
Consider and approve Ordinance No. 1897 granting an exclusive solid waste franchise and an exclusive franchise contract for the collection and removal of solid waste to Republic Services (BFI Waste Services of Texas, L.P) on second reading.			

EXECUTIVE SUMMARY

As covered in a workshop with the City Council on November 6, 2012, a common best practice among cities is an exclusive solid waste collection system. Under an exclusive solid waste system, the City would enter into a long-term contract, or exclusive franchise, with a private hauler for the collection and disposal of solid waste from commercial properties and construction and demolition debris from residential properties. Section 364.034 of the State of Texas Health & Safety Code authorizes a local government to grant a franchise for solid waste collection and disposal. At the November 6 workshop, the City Council directed staff to move forward with developing an exclusive franchise solid waste system negotiating an exclusive franchise with Republic Services (BFI Waste Services of Texas, L.P), the City's current residential solid waste contractor.

An exclusive franchise has many benefits which include decreased cost of service, increased level of service, increased recycling, decreased impact on streets, reduction in the number of collection vehicles, increased safety, decreased vector control issues, decreased stormwater issues, and increased accountability. Additional benefits which can be included in the contract include requirements for recycling, maximum age of collection vehicles, appearance and condition of containers and vehicles, and management of customer complaints.

An additional workshop was held with City Council on February 19, 2013 to review the results of the negotiations and to outline revisions needed to the City Code. As outlined at the workshop, the attached contract with BFI is for an exclusive franchise for the collection and disposal of solid waste from commercial properties and construction debris from commercial and residential properties. The exclusive franchise could provide commercial customers with a decrease in solid waste costs and includes the option of a 95 gallon cart, which costs significantly less than the smallest option currently available. The exclusive franchise will also promote recycling through pricing to every commercial customer and provide a cost savings of \$206,000 to the City along with the benefits outlined above.

The contract also includes residential solid waste service and has a 10-year term. The contract provides for the transition to an exclusive franchise system for commercial solid waste with an implementation date of October 1, 2013.

The Public Works Department recommends approval of Ordinance No. 1897 granting an exclusive solid waste franchise and an exclusive franchise contract for the collection and removal of solid waste to Republic Services (BFI Waste Services of Texas, L.P).

EXHIBITS

Ordinance No. 1897